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C O N F I D E N T I A L SECTION 01 OF 03 KHARTOUM 001376

SIPDIS

DEPARTMENT FOR A/S CARSON
ADDIS ABABA FOR USAU

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TAGS: KDEM PGOV PINS PREL SU

SUBJECT: NCP AND SPLM UP THE POLITICAL ANTE; TENSIONS SPIKE

REF: A) KHARTOUM 1359 B) KHARTOUM 1362

Classified By: CDA Robert Whitehead, for reasons 1.4 (b) and (d)

¶11. (C) Summary: The December 7 confrontation between opposition demonstrators that led to the arrest of several Sudan People's Liberation Movement leaders (reftels) has led to Counter-moves on both sides, effectively upping the political ante. Government of Southern Sudan (GoSS) Vice President Riek Machar and Presidential Affairs Minister Luka Biong have reported that the National Congress Party (NCP) plans to table three controversial pieces of legislation at the Council of Ministers on December 10 and than introduce them into Parliament for fast-track approval prior to the December 17 parliamentary recess. Presidential Advisor Ghazi Salahuddin confirmed to Charge that the NCP will pursue this course of action unless the SPLM agrees to return and discuss the legislation in question. GoSS President (and Government of National Unity (GoNU) First Vice President) was scheduled to arrive in Khartoum December 10 to meet with President Bashir to try and break the deadlock. Tensions continue to mount, but the SPLM reportedly will not organize further demonstrations over the weekend, and the NCP leadership is meeting the evening of December 9 to discuss how to proceed. End summary.

MACHAR INDIGNANT OVER BILLS TO BE TABLED TOMORROW

¶12. (C) On December 9, GOSS VP Riek Machar told Charge d'Affaires Robert Whitehead and a delegation from the US Commission on International Religious Freedom (USCIRF) that the NCP is "plunging us into another crisis" following the December 7 arrests of senior SPLM officials, further ratcheting up the pressure that began with the month-long SPLM boycott of the National Assembly over lack of progress on legislation that would allow the 2010 national elections and 2011 Abyei and Southern Sudan self-determination referenda to take place. Machar said that the NCP planned to table versions of the Southern Sudan referendum bill, the Popular Consultations bill for Blue Nile and Southern Kordofan, and the Abyei Referendum bill in the GoNU Council of Ministers on December 10 despite long-standing SPLM objections to provisions in each of the texts. Machar said the SPLM had requested and received from the NCP late on December 8 the texts in question and is still in the process of fully reviewing these.

3 (C) Machar said that the initial SPLM reaction was negative. Instead of defining in the legislation who is eligible to vote in the Abyei Referendum, the bill left the crucial issue of residency to a consensus decision by the (still unformed) Abyei Referendum Commission. He continued

that the NCP draft of the Popular Consultations bill was not consistent with the latest draft discussed between the NCP and SPLM, and that the bill on the Referendum for Southern Sudanese set a threshold percentage of participation by registered voters at 67% and contained a clause saying that the Referendum could not take place until post referendum issues had been resolved. The SPLM remained adamant that the Referendum Act contain neither of these provisions. (Machar said the SPLM would still accept a 55% threshold but no mention of post-referendum issues.) Biong said that, due to the SPLM boycott of the Council of Ministers and the National Assembly, the SPLM would be unable to block passage of the bills by the NCP's mechanical majority. "They are trying to take action on bills not agreed to by the GoSS," Machar echoed. "They know they have the majority to pass bills. The SPLM does not have the numbers to stop passage."

¶4. (C) Outwardly calm, the normally upbeat Machar said that he hoped to find a way out of the new crisis, which he described as an NCP "escalation." He complained that GNU Vice President Ali Osman Taha, his usual interlocutor, had not responded to Machar's phone calls, and that Machar had been unable to meet with Taha on December 9. "The international community needs to exercise its influence," Machar said, adding that GoSS President Kiir would travel to Khartoum on December 9 (later postponed to December 10) to meet with President Bashir in an attempt to break the impasse. Charge urged the SPLM leaders to remain calm and avoid any precipitous actions that might further aggravate the situation.

DR. GHAZI CONFIRMS NCP IN THE "TAKE IT OR LEAVE IT" MODE

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¶5. (C) In a subsequent meeting with the Charge, Dr. Ghazi Salahuddin confirmed that the NCP was indeed prepared to move ahead unilaterally if the SPLM continued to buckle under to those in its ranks who were seeking confrontation with the NCP rather than partnership. He said the some elements in the NCP had wanted to organize counter demonstration against the SPLM in Juba and other cities on November 7 but had been dissuaded by the possibility violence. He said that others wanted to declare an end to the dysfunctional NCP-SPLM partnership. The final decision, he said, had been to move ahead to see that the Comprehensive Peace Agreement proceeds on schedule. "We are committed to holding both the elections and referenda on the current time table," he said, "and we will pass necessary laws to enable this." He noted that the Election Bill had already cleared the National Assembly and said that the GoNU would go with that as drafted, using the 2008 census figures and dropping any additional elected/appointed representation for the South. He confirmed the Abyei Referendum Act would empower the Abyei Referendum Commission to determine by consensus who is eligible to vote as a resident of Abyei. He said that the Popular Consultations in the Nuba Mountains and Upper Blue Nile State did not, in the NCP's view, require legislation. The Southern Sudan Referendum would use the 67 percent voter participation threshold and 50 percent plus 1 approval vote earlier agreed between Machar and Taha, which the SPLM subsequently had refused to endorse. And finally, he said, mutually-agreed language on the Security Act had already been introduced into the National Assembly. Ghazi said that the legislation could pass into law within a week, before the scheduled December 17 recess.

¶6. (C) The Charge warned that unilateral action could only complicate the situation and urged that the NCP seek ways to avoid a showdown from which no one stood to gain. Ghazi responded that the NCP was ready to resume discussions with the SPLM on the range of outstanding issues if the latter agreed to this course of action. It was up to the SPLM to choose whether it wanted to be an opposition party or to

continue in partnership with the NCP. Charge noted the unfortunate events of December 7, and Ghazi replied that the use of "popular uprising" and similar rhetoric in public statements by Hassan Al Turabi and the SPLM's Pagan Amum had caused (unidentified) NCP members to turn the issue over to the security forces to ensure that the demonstrations did not turn violent.

¶ 17. (C) He repeated the MFA message that Head of SPLM Northern Sector Yassir Arman had not been arrested, but had voluntarily climbed into a police car and insisted on accompanying Amum, who Ghazi claimed had scuffled with police, to a police station. He said that he did not know if Arman had been abused/beaten by the police, as Arman claimed, but noted that a panel of three examining doctors had ascertained that Arman was not injured and that there was no evidence of a beating other than small bruises on Arman's knee. Ghazi concluded that it was possible that Bashir and Kiir could come to an understanding, and the NCP leadership was scheduled to meet the evening of December 9 to discuss its options. He noted that the following weekend would provide an opportunity for everyone to take a deep breath and look for a way out of the present impasse. Charge repeated that it would be short-sighted to take any course of action that would be a loss for both sides.

TRIANGULATING VIEWS

¶ 18. (C) The Charge compared notes with visiting UK Special Envoy for Sudan Michael O'Neil and UK Ambassador Roz Marsden late on November 8. O'Neil confirmed that he had received essentially the same message in his meetings with NCP Presidential Foreign Affairs Advisors Mustafa Ismael, Ghazi, and Salah Ghosh; GoNU Foreign Minister Deng Alor (SPLM); and Pagan Amum. Ghazi had hinted at somewhat greater flexibility, stating that the National Assembly, telling O'Neil that the legislation could remain on hold until December 23 and Assembly remain on call until January 11. Ghosh was even more upbeat, insisting that four of five outstanding issues were near solution, with Abyei remaining the only major impediment. Deng Alor surprisingly agreed with this analysis and stated that it might be possible to leave Abyei aside for the moment. He also claimed that hard-line Presidential Nafie Al Nafie had been responsible

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for unleashing the security forces on December 7. Perhaps the most surprising statements of all came from Pagan Amum, who described to O'Neil his new commitment to non-violent action in terms O'Neil described as "messianic and surreal,"

COMMENT

¶ 19. (C) The SPLM and NCP are engaged in a high-stakes game of chicken, with Amum and his faction seemingly committed to the improbable strategy of bringing down the NCP through non-violent activism and the NCP determined to force the SPLM back to the negotiating table. We do not discount the possibility that both sides may look for a way out. The last time the SPLM walked away from the GoNU in October 2007, a last minute agreement between the two parties resolved the crisis. It remains possible that such an outcome can be engineered at the Bashir/Kiir level, and in a brief meeting with DCM and poloffs, Amum said that the SPLM would stand down from further public demonstrations over the weekend to ease the situation. We will continue to work our contacts on both sides to defuse the situation and to discourage further unilateral brinkmanship that imperils implementation of the CPA. Both parties are aware of the impending visit of Special Envoy Gration.

WHITEHEAD